

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION**

**ZACK ELLIS, GERONIMO PEREZ,  
ARTURO SALINAS, JARROD M. DANIEL,  
and KERRY TAWATER, individuals,**

**Plaintiffs,**

**vs.**

**TRI-STATE OIL FIELD SERVICES, Inc.,  
a Texas Corporation, RICARDO “RICKY”  
CANTU, an individual, RICKY’S  
TOWING OF AMARILLO, LLC,  
a Texas limited liability company, KATRINA  
KINCAID, an individual, and CANTU  
TOWING, LLC, a Texas limited liability  
company,**

**Defendants.**

**CASE NO. 2:15-CV-00058-J**

**JURY TRIAL DEMANDED**

**UNOPPOSED MOTION TO EXTEND TIME FOR MEDIATION**

COME NOW, Zach Ellis, Geronimo Perez, Arturo Salinas, Jerrod M. Daniel, and Kerry Tawater, Plaintiffs and file this their Unopposed Motion to Extend the Time For a Court Ordered Mediation, and would show the Court the following:

**I. BACKGROUND**

1.01 Plaintiffs filed their Original Complaint on February 17, 2015 (Dkt. 1). The defendants filed their respective Answers on March 12, 2015, (Dkt. 5) the Answer of Katrina Kincaid with a subsequent Answer for Ricky’s Towing (Dkt. 10), Cantu Towing (Dkt. 12) and Tri-State Oil & Field Services (Dkt. 15) filed thereafter.

1.02 Plaintiffs initiated written discovery on March 18, 2015, and filed its Motion for Order Authorizing Notice (Dkt. 18) on March 26, 2015, that was agreed in part and opposed in part. Plaintiffs filed a Memo In Support (Dkt. 19) and their Appendix in Support (Dkt. 20) of even date. Despite part of the motion was agreed it has yet to be ruled upon.

1.03 The defendants filed responses to Plaintiffs written discovery out of time and said answers and responses were and are inadequate resulting in Plaintiffs' Motion to Compel being filed on June 10, 2015 (Dkt. 24). The Court referred the discovery dispute to Judge Averitte on June 17, 2015 (Dkt. 25). The discovery dispute was heard on July 15, 2015, at which time the defendants produced two (2) disorganized boxes of documents for plaintiffs review, copies of which were reviewed by plaintiffs on Friday, July 24, 2015.

1.04 Pursuant to this Court's Order (Dkt. 30) plaintiffs filed their Supplemental Motion to Compel (Dkt. 35), reciting the remaining deficiencies in the defendants responses to written discovery. Plaintiffs have yet to schedule depositions and need additional time to resolve what documents exist before setting depositions.

1.05 Judge Robinson ordered this case to Mediation by Friday, August 7, 2015, by her Order of June 30, 2015 (Dkt. 30). Thereafter, Judge Robinson referred the entire case to Judge Averitte for handling (Dkt. 34).

## **II. RELIEF SOUGHT**

2.01 Plaintiffs and defendants need additional time before this case is mediated because:

- 1) Written discovery has not been properly responded to as yet – including the production of relevant documents that are critical to plaintiffs preparation and scheduling of depositions;
- 2) Plaintiffs and defendants need the Motion to Authorize Notice ruled upon – at least the authorization to send notice to employees and former employees on the entity that has agreed to said relief to determine who all the parties are before mediation is schedule; and
- 3) A remaining hearing on discovery has yet to be scheduled as defendants time to respond has yet to expire.

### **CONCLUSION**

Plaintiffs move for an extension of time for Court Ordered Mediation and for the Court to Rule on the Motion Authorizing Notice to enable the parties to determine who the parties consist of and to allow discovery to go forward and such other relief deems proper. Plaintiff have discussed the foregoing with opposing counsel and he is not opposed to the requested extension of time for mediation. Counsel for plaintiffs do not represent that opposing counsel is agreed to the motion to compel.

Respectfully submitted,

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By: /s/ Philip R. Russ  
Philip R. Russ Bar No. 17406000

**ATTORNEYS FOR PLAINTIFFS**

**CERTIFICATE OF CONFERENCE**

I certify that I previously discussed the extension to mediate with Darrell Carey and he agreed, and as to the remaining issues on the 7<sup>th</sup> day of August, 2015, Philip R. Russ attorney for Plaintiffs, attempted to contact Darrell Carey, Esq., at the Law Offices of Darrell Carey, counsel for Defendants, Darrell Carey was out of the office. I have not been able to reach him.

/s/ Philip R. Russ  
Philip R. Russ

**CERTIFICATE OF SERVICE**

I hereby certify that on the 7<sup>th</sup> day of August, 2015, I electronically filed the foregoing with the Clerk of the Court for the Northern District of Texas, by using the CM/ECF system which will send a notice of electronic filing to the following CM/ECF participants:

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BY: /s/ Philip R. Russ  
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